

Pro Se 15 2016

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

CASE NO. 3:22-cv-05523-LK

[to be filled in by Clerk's Office]

COMPLAINT FOR VIOLATION
OF CIVIL RIGHTS

(for use only by plaintiffs not in
custody)

Jury Trial: ☐ Yes ☐ No

Henry, David G.

Plaintiff(s),

v.

City of Tacoma,

Komarovsky, Ron,

Cellan, Brynn,

I. THE PARTIES TO THIS COMPLAINT

A. Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	David Henry
Street Address	8801 Cinnamon Creek Dr. Apt. 905
City and County	San Antonio, Bexar County
State and Zip Code	Texas, 78240
Telephone Number	360-399-5442

Pro Se 15 2016

B. Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	City of Tacoma
------	----------------

Job or Title <i>(if known)</i>	Victoria Woodards
--------------------------------	-------------------

Street Address	747 Market St
----------------	---------------

City and County	Tacoma, Pierce County
-----------------	-----------------------

State and Zip Code	Washington, 98402
--------------------	-------------------

Telephone Number	253-591-5100
------------------	--------------

<input checked="" type="checkbox"/> Individual capacity	<input type="checkbox"/> Official capacity
---	--

Defendant No. 2

Name	Ron Komarovsky
------	----------------

Job or Title <i>(if known)</i>	Police Officer
--------------------------------	----------------

Street Address	3701 S. Pine St.
----------------	------------------

City and County	Tacoma, Pierce County
-----------------	-----------------------

State and Zip Code	Washington, 98409
--------------------	-------------------

Telephone Number	253-591-5950
------------------	--------------

<input checked="" type="checkbox"/> Individual capacity	<input type="checkbox"/> Official capacity
---	--

Defendant No. 3

Name	Brynn Cellan
------	--------------

Job or Title <i>(if known)</i>	Police Officer
--------------------------------	----------------

Street Address	3701 S. Pine St.
----------------	------------------

City and County	Tacoma, Pierce County
-----------------	-----------------------

State and Zip Code	Washington, 98409
--------------------	-------------------

Telephone Number	253-591-5950
------------------	--------------

<input checked="" type="checkbox"/> Individual capacity	<input type="checkbox"/> Official capacity
---	--

Pro Se 15 2016

Defendant No. 4

Name

Job or Title (*if known*)

Street Address

City and County

State and Zip Code

Telephone Number

☐ Individual capacity☐ Official capacity**II. PREVIOUS LAWSUITS**

Have you brought any other lawsuits in any federal court in the United States:?

☐ No☐ YesIf yes, how many? [Click here to enter text..](#)

Describe the lawsuit:

Parties to this previous lawsuit:

Plaintiff(s)

Pro Se 15 2016

Defendant(s)

(If there is more than one previous lawsuit, describe the additional lawsuits on another piece of paper using the same outline. Attach additional sheets, if necessary)

Court and name of district:

Docket Number: [Click here to enter text.](#)

Assigned Judge: [Click here to enter text.](#)

Disposition: *(For example, was the case dismissed as frivolous or for failure to state a claim? Was it appealed? Is it still pending?)*

Approximate filing date of lawsuit: [Click here to enter date.](#)

Approximate date of disposition: [Click here to enter date.](#)

III. BASIS FOR JURISDICTION

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens*

Pro Se 15 2016

1 v. *Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may
 2 sue federal officials for the violation of certain constitutional rights.

3 A. Are you bringing suite against (*check all that apply*):

4 ☐ Federal officials (a *Bivens* claim)

5 ☒ State or local officials (a § 1983 claim)

6 B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or
 7 immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are
 8 suing under section 1983, what federal constitutional or statutory right(s) do you claim
 9 is/are being violated by state or local officials?

10 Amendment XIV and Amendment IV of the U.S. Constitution.

11
 12
 13
 14 C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional
 15 rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are
 16 being violated by federal officials?

17
 18
 19
 20
 21 D. Section 1983 allows defendants to be found liable only when they have acted "under
 22 color of any statute, ordinance, regulation, custom, or usage, of any State or Territory
 23 or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983,
 24 explain how each defendant acted under color of state or local law. If you are suing

Pro Se 15 2016

1 under *Bivens*, explain how each defendant acted under color of federal law. Attach
2 additional pages if needed.

3 Police officers Ron Komarovsky and Brynn Cellan arrested David Henry for driving
4 under the influence and suggested plaintiff perform roadside tests to ensure he was ok to
5 drive again. The plaintiff's vehicle had just been in a collision and was inoperable. The
6 plaintiff may have been suffering from a concussion and cooperated with both the
7 officer's requests with full trust of the officer's duties. Officer Komarovsky began to
8 question the plaintiff as a suspect in a crime. Officer Cellan supported Komarovsky and
racially profiled the plaintiff as being guilty of a crime. The two officers arrested the
plaintiff while under the employment of Tacoma police department and acting within their
scope of employment with the city of Tacoma and under the color of state law.

9

10

11

12 IV. STATEMENT OF CLAIM

13 *State as briefly as possible the facts of your case. Describe how each defendant was personally*
14 *involved in the alleged wrongful action, along with the dates and locations of all relevant events.*
15 *You may wish to include further details such as the names of other persons involved in the events*
giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted,
16 *number each claim and write a short and plain statement of each claim in a separate paragraph.*
Attach additional pages if needed.

17 Officer Ron Komarovsky began to question me after I had just been involved in a motor
18 vehicle accident. Ron Komarovsky suspected me of a crime due to racial profiling. He
19 asked if I had consumed alcohol or smoked marijuana before the incident, I told the
20 officer that I had not. He continued to question when the last time I had smoked
21 marijuana was and how much I had smoked, despite that I had not consumed any
22 marijuana within the last 24 hours. He omitted this information with a reckless disregard
23 for the truth to obtain a warrant for the withdrawal of my blood. He then had me perform
24 multiple roadside field sobriety tests without credence to the fact I had just been involved

Pro Se 15 2016

1 in a collision. I blew a .000 on the PBT to which Komarovsky promptly placed me under
 2 arrest, forcibly withdrew my blood at the hospital without my consent, who then charged
 3 me upwards of \$5,000, and put me in jail for over 32 hours. Officer Komarovsky began to
 4 shake the plaintiff by the wrists with excessive force when they arrived at the jail.

5 Officer Brynn Cellan, when arriving at the scene immediately found me suspect of a crime
 6 and can be heard saying:

7 “Look at his face, He’s high” on body cam footage provided by the police department.

8 Officer Brynn Cellan racially profiled me and assumed I was guilty of a crime and

9 assisted officer Komarovsky in placing me under arrest and forcibly withdrawing my

10 blood at the hospital. Despite the wrongful conduct of the Officers, Tacoma has effectively
 11 defended and ratified their actions. Officers of Tacoma feel as if they will not be disciplined
 12 for any wrongdoing and Tacoma has given this allowance time and time again. City of
 13 Tacoma should be held liable for the continued employment of Officer Ron Komarovsky
 14 even after his involvement in the murder of Manuel Ellis in 2020 case no: 3:21-cv-05692-
 15 LK and other incidents of Komarovsky’s behavior. The plaintiff was victim to Ron
 16 Komarovsky’s racist motives and Komarovsky is still acting under the color of law today.
 17 Therefore, the city of Tacoma is liable for the violation of the plaintiff’s civil rights and
 18 excessive force of Ron Komarovsky and Brynn Cellan.

19 _____
 A. Where did the events giving rise to your claim(s) occur?

Tacoma, Washington at the intersection of 56th st and Oakes St.

B. What date and approximate time did the events giving rise to your claim(s) occur?

1/6/2021 at around 2:00 pm

C. What are the facts underlying your claim(s)? (For example: What happened to you?

Who did what? Was anyone else involved? Who else saw what happened?)

I was in a car accident on 1/6/2021 when I was stopped at a red light at the intersection of
 56th st. and Oakes st. I mistook the light turning green and crossed into traffic striking

Pro Se 15 2016

20 another vehicle. Tina L. Blanks and Brian E. Woodard were in the other vehicle. No
21 injuries were apparent at the scene. A witness, Shane B. Woods, gave a false statement to
22 officer Ron Komarovsky. I have video evidence of the collision and all statements given
23 to and by the police. Shortly after the crash, Tacoma fire department arrived on the scene
24 shortly followed by Tacoma police department. Officer Ron Komarovsky was the first

Pro Se 15 2016

1 officer to talk to me after speaking with Tacoma fire. Ron Komarovsky proceeded to ask
2 for my driver's license and proof of insurance to which I complied. Komarovsky said that
3 after checking my ID that we were done and that I would be on my way home and asked
4 if anyone was able to pick me up. I said yes and he returned to his vehicle. When he
5 returned from his vehicle to give me my ID and insurance back, he began to question me
6 as if I was a suspect to a crime. I was cooperative and friendly and answered all questions
7 truthfully. He asked if I had been drinking to which I said no. He asked if I had been
8 smoking to which I said no. I told him I had purchased some marijuana legally at the
9 store and I had not smoked for a few days. In the police report, officer Komarovsky
10 stated that I "admitted" to going to the marijuana store. Going to the store to purchase a
11 legal product is not an admittance of a crime. It is not illegal to buy marijuana in
12 Washington and drive home with it, just as it is perfectly legal to buy alcohol at the store
13 and drive home with it. The package was unopened. He kept asking me when I last
14 smoked and how much? It is obvious that officer Ron Komarovsky did not care if I was
15 actually sober or not, but whether my blood would have enough THC to give a positive
16 result. He then requested I perform sobriety tests to ensure I was able to drive home. The
17 car was totalled, but it had not occurred to me that this was an odd request as I was still in
18 shock from the car accident. No signs of intoxication were seen on the HGN but officer
19 Komarovsky saw it fit to determine my balance was indicative of intoxication after I had
20 just been involved in a vehicular collision. Which is not a symptom of marijuana
21 intoxication but for alcohol and the PBT gave a reading of .000 after my consent. Officer
22 Brynn Cellan arrived shortly after and did not ask for any information regarding the
23 incident from any of the people involved. Brynn Cellan then assisted Ron Komarovsky in
24 my arrest and held me against the police car and continued in assisting when Ron

Pro Se 15 2016

Komarovsky took me to the hospital to withdraw my blood for evidence. The blood came back clean as I had no active THC or any drugs in my system and a carboxy level far below any significant measure. Officer Brynn Cellan parted ways with Ron Komarovsky after the hospital and Komarovsky then took me to jail where I was held against my will for over 32 hours. The case was dismissed with prejudice on December 17th, 2021, after numerous court proceedings. All of which I had to pay an attorney for and take time out of my schedule to appear for. Tina L. Blanks and Brian E. Woodard, also, attempted to sue me for a total of \$134,000.00 on the basis that I was under the influence due to officer Komarovsky's and officer Cellan's actions. The hospital then sent me to collections for not paying the bill I was wrongly charged for, and my credit score has since been significantly impacted. All of this happened because officer Komarovsky and Cellan racially profiled me and charged me with a crime with no evidence and no probable cause.

V. INJURIES

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I have suffered significant stress and trauma from all of this which I did not receive any treatment for. I have a fear of the police now and am unable to function in their presence. I may have been suffering from a concussion after the accident which was never addressed because I was thrown in jail.

Pro Se 15 2016

1 _____

2 **VI. RELIEF**

3 *State briefly what you want the court to do for you. Make no legal arguments. Do not cite any*
4 *cases or statutes. If requesting money damages, include the amounts of any actual damages*
and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

5 I want the court to demand that the Tacoma Police Department and it's employees, Ron
6 Komarovsky and Brynn Cellan, pay damages to the cost of \$600,000.00. This includes
7 the amount of time that I was held in jail and the mandatory court dates which I value at a
8 \$2,000.00 per hour minimum. The cost of an attorney which was \$2,500.00. The amounts
9 that Tina L. Blanks and Brian E. Woodard sued me for of \$134,000.00. The hospital bills
10 which total \$5,392.00. The negative impact on my credit score due to these
11 circumstances, the loss of wages, and all other possible medical damages for my physical
12 and mental health that I have suffered since the incident.
13 _____
14 _____
15 _____


16 **VII. CERTIFICATION AND CLOSING**

17 Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my
18 knowledge, information, and belief that this complaint: (1) is not being presented for an improper
19 purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
20 (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or
21 reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so
22 identified, will likely have evidentiary support after a reasonable opportunity for further
23 investigation or discovery; and (4) the complaint otherwise complies with the requirements of
24 Rule 11.

Pro Se 15 2016

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 7/20/2022_____

Signature of Plaintiff _____

Printed Name of Plaintiff David Henry_____

Date of signing: _____

Signature of Plaintiff _____

Printed Name of Plaintiff _____

Date of signing: _____

Signature of Plaintiff _____

Printed Name of Plaintiff _____